Supreme Court of the United States

OCTOBER TERM, 1933

No. 64

AMY ARZT and JOSEPHINE RAMSEY,

Petitioners,

vs.

RUDOLPH B. FLERSHEM, CHARLES O. CORNELL, JOHN H. WATERS, *et al., etc.*

PETITIONERS' SUPPLEMENTAL REPLY BRIEF

The petitioners have served and filed a reply brief in this cause. The reply brief was addressed to the brief of the respondent Bankers Trust Company and to a brief of the respondents Reorganization Committee served on us on November 2, 1933.

On November 6, 1933—after our reply brief had been printed, but before it was served—we received by mail a revised brief served on behalf of respondents Reorganization Committee in which they revised pages 3, 4, 5 and 11 of their first brief, which they have withdrawn.

It therefore becomes necessary that we explain to this Court that the excerpts in our reply brief (pp. 5, 7, 12, 14) from pages 3, 5 and 11 of the brief of Reorganization Committee are from the first and unrevised brief.

We wish also at this time to correct certain statements

contained in the revised brief. The statement on page 3 of that brief:

> "In substance, this was an averment of the defendant's imminent insolvency and the Record shows that when Receivers were appointed the defendant's cash was but little in excess of its current liabilities totaling $1,035,000 (R. 499), and its overdue sinking fund obligation of $32,068.50."

is incorrect. The statement at page 499 of the Record, shows the condition of the Company on September 30, 1931. The liabilities of the Company on October 9, 1931, when the Receivers were appointed, are set forth in the decree (R. 294, 295) and are accurately stated on page 13 of our Main Brief and page 6 of our Reply Brief.

Equally incorrect is the following statement on page 5 of the revised brief:

> "As shown above, at the date of receivership (adopting petitioner's own method of crediting to sinking fund $158,000 of treasury Debentures canceled after receivership), the defendant was indebted for accrued interest and sinking fund and other current liabilities to a total of $1,067,068.50. Had this amount been paid, it would have left cash of only $190,313,—not $400,000 (13)."

That statement is founded upon the erroneous premise that on October 9, 1931, the current liabilities, exclusive of sinking fund obligation were $1,035,000.

We also wish to call to the attention of this Court, that besides cash there were other current assets such as accounts receivable and inventory which were readily reducible to cash.

CONCLUSION

We have in our Main Brief and in our Reply Brief accurately set forth the condition of the Company at various times during the Receivership and prior thereto. In all

cases of conflict in figures between the Reorganization Committee and ourselves, a reference to the pages in the record cited by us will convince the Court of our absolute correctness.

Respectfully submitted,

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